IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1944 OF 2007

M/s.Nigadi Land Development Company ...Petitioners
(Orig.Plaintiffs)

V/s.

M/s.Bansal Iron & Sheet Traders & Ors. ...Respondents
(Orig.Defendant Nos.1, 3 and 5)

Mr.Madhav J. Jamdar for the Petitioners.
None for the Respondents.

CORAM : V.M. KANADE, J.

DATED : JULY 9, 2007

P.C. :-

1. Heard the learned Counsel for the petitioners.

2. The petitioner takes exception to the order passed by the Civil Judge, Junior Division, rejecting their application for ignoring the vakalatnama, written statement, replies, affidavits and the documents filed by the defendants-respondents herein and for a further direction that the suit may proceed without written statement and decree be passed in favour of the petitioners who are original plaintiffs herein. The grievance of the petitioners in the application which

was filed before the trial court was that one Shri Lalitkuamr Agarwal has filed the vakalatnama, written statement and the affidavit on behalf of the firm. After inspection was taken by the petitioners of the register of the firms, it was noticed that he was not the partner in the said firm. It was, therefore, submitted that he had no authority to sign or represent the firm. The trial Court after going through the reply filed by the respondents came to the conclusion that the objection which was raised by the plaintiffs-petitioners herein were the technical one since the defendants have stated that Shri Lalitkumar Agarwal was a member of the joint family and that he was also partner in the firm and in 1993, all the partners of the firm have given General Power of Attorney to Shri Agarwal.

3. In view of this, I do not see any reason to interfere with the said order. It is open for the plaintiffs to agitate this point at a subsequent stage.

. With these observations, writ petition is dismissed.

(V.M. KANADE, J.)